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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,593	01/07/2002	David E. Sisk	7203	2669
7590	01/11/2005			
Paul M. Denk 763 South New Ballas Road St. Louis, MO 63141			EXAMINER MCCARRY JR, ROBERT J	
			ART UNIT 3617	PAPER NUMBER
DATE MAILED: 01/11/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/040,593

Applicant(s)

SISK, DAVID E.

Examiner

Robert J. McCarty, Jr.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 12 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Matye et al (US 5,937,581) in view of Ward (US 5,359,942).

Matye et al disclose a manhole cover for a tanker 14. The manhole cover is comprised of a hollow neck having a side wall 12a defining an opening and a locking members 36 operatively mounted to both sides of side wall 12a of the manhole. The locking member 36 is connected by mounting brackets 40 and is movable between a locked position shown in figure 4 and an unlocked position in figures 5, 6 and 7. The positioning of the locks in the unlocked position, shown in figure 7, appears to be about 45 degrees from the longitudinal axis. A cover 15 is associated with the assembly and is pivotable about longitudinal axis of rotation 48 shown in figure 2. Figure 4 shows the cover 15 in a closed position and figure 7 shows the cover 15 in a fully opened position clear of the manhole opening into the tank. The cover also includes locking members 35 on both sides of the cover that extend radially outward from annular flange 27. The locking members 35 are aligned with the locking members 36 mounted on the side wall 12a of the assembly when the cover is in the closed position. Figures 8A through 8D show the operation of shaft 18 as it actuates the unlocking of the locking members 36

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and actuates the opening of the cover 15. When the shaft 18 rotates about the longitudinal axis of rotation 48 driver arm members 38 pivot locking arm members 36 between a locked and unlocked positions. The shaft is journaled in brackets 20 and 22. Each bracket includes a pair of stops; such as drive pins 50a, 50b and 52a, 52b, which selectively couple the shaft 18 to the cover 15. These stops are what allow the shaft 18 to rotate so as to actuate the lock 36 as well as open the cover 15. A motor 65 acts as an activator, which when energized, causes the shaft 18 to move and actuate the lock and cover as described above. The device is further comprised of a seal for the cover in the form of an inflatable bladder 32. The bladder 32 engages a surface of the side walls 12a and the cover in order to provide a tight seal between the cover 15 and the wall 12a. The bladder 32 is inflated by an external supply of air deliver to the bladder by means of a supply tube.

Matye et al discloses a manhole cover for a tank car as described above. Matye et al also described the manhole cover to be automated. The Examiner has interpreted this automation to mean that the operator can open and close the cover from a remote location. However, Matye et al does not specifically disclose a remote control for operating the cover. Ward discloses a hopper car having remote controlled doors, which allows for an operator to open and close the doors of the vehicle from a remote location. The remote control of Ward, shown if figure 4, shows that each door is operated by a single manually operated switch for opening and closing each door. Ward shows the different doors to be labeled Gate A, B, etc and shows only two positions, up for opening the door and down for closing the door. Since Matye et al describes the cover

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to already be automated it would have been obvious to one of ordinary skill in the art to understand that a remote control, like that of Ward, could be used to control the doors of Matye et al.

### ***Response to Arguments***

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robert J. McCarry, Jr. whose telephone number is (703) 305-0581. The examiner can normally be reached on Monday through Friday 8:00am to 5:00pm.

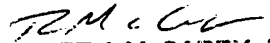
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (703) 308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.


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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

RJM

January 5, 2005

  
ROBERT J. MCCARRY, JR.  
PATENT EXAMINER  
3617

  
S. JOSEPH MORANO  
SUPERVISORY PATENT EXAMINER  
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